

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X  
JAMAAL RUSS

Plaintiff,

-against-

DARRELL CHAVERS,

Defendant.  
----- X

**ANSWER TO THE  
COMPLAINT**

Jury Trial Demanded

10 CV 1370 (SLT)(JO)

Defendant Detective Chavers, by his attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for his answer to the complaint, respectfully alleges, upon information and belief, as follows:

1. Denies the allegations set forth in paragraph "1" of the complaint.
2. Denies the allegations set forth in paragraph "2" of the complaint, except admits that plaintiff purports to invoke the jurisdiction of the Court as stated therein.
3. Denies the allegations set forth in paragraph "3" of the complaint, except admits that plaintiff was arrested on or about March 14, 2008 for Attempted Murder in the 2<sup>nd</sup> Degree, Possession of a Loaded Firearm, Assault in the 2<sup>nd</sup> Degree, and Assault in the 3<sup>rd</sup> Degree, and that plaintiff's criminal case terminated in an acquittal on or about March 20, 2009.
4. Denies the allegations set forth in paragraph "4" of the complaint, except admits that plaintiff purports to seek damages as stated therein.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE:**

5. The complaint fails to states a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE:**

6. Defendant has not violated any rights, privileges or immunities under the Constitution or laws of the United States, the States of New York or any political subdivision thereof.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE:**

7. At all times relevant to the acts alleged in the complaint, defendant acted reasonably in the proper and lawful exercise of his discretion.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:**

8. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct, and/or that of third parties, and was not the proximate result of any act of the defendant.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:**

9. There was probable cause for plaintiff's arrest, detention, and prosecution.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:**

10. Plaintiff provoked any incident.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:**

11. Plaintiff's claims may be barred, in whole or in part, because plaintiff failed to comply with all conditions precedent to suit.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

12. Plaintiff may have failed to comply with New York General Municipal Law §§ 50-e, 50-i and/or 50-h.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

13. Defendant Detective Chavers has not violated any clearly established constitutional or statutory right of which a reasonable person would have known and therefore is protected by qualified immunity.

**WHEREFORE**, defendant Detective Chavers requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
August 4, 2011

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
*Attorney for Defendant Detective Chavers*  
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By: 

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Assistant Corporation Counsel

TO: BY MAIL  
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***MICHAEL A. CARDOZO***

*Corporation Counsel of the City of New York  
Attorney for Defendant Detective Chavers  
100 Church Street  
New York, N.Y. 10007*

*Of Counsel: Lisa M. Richardson  
Tel: (212) 442-0832*

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 201.....*

*..... Esq.*

*Attorney for .....*